the power to change the beneficiaries without their consent. The trustee claimed that the bankrupt must either deliver the policies or pay him their cash surrender value. *Held,* that the trustee was entitled to the relief claimed. *Cohen v. Samuels* (1917) 38 Sup. Ct. 36.

The interpretation of section 70a(5) of the Bankruptcy Act has caused much disagreement among the lower federal courts. Clause (5) vests in the trustee property which the bankrupt might by any means have transferred or which was subject to judicial levy and sale, with the proviso that "when any bankrupt shall have any insurance policy which has a cash surrender value payable to himself, his estate or representatives," he may pay its cash surrender value to the trustee and continue to hold "such policy free from the claims of the creditors . . .; otherwise the policy shall pass to the trustee as assets." This language was capable of two constructions. One line of cases held the view that only policies having a cash surrender value passed to the trustee. *Gould v. N. Y. Life Ins. Co.* (1904, D. C., E. D. Ark.) 132 Fed. 927. Other courts maintained that all policies payable to the bankrupt were vested in the trustee by that portion of clause (5) which preceded the proviso, and that the proviso merely gave the bankrupt a power to redeem such policies as had a cash surrender value by paying this sum to the trustee. *In re Welling* (1902, C. C. A. 7th) 113 Fed. 189; and see Remington, *Bankruptcy* (2d ed.) sec. 1002 *et seq.* The controversy was settled by the Supreme Court in *Burlingham v. Crouse* (1913) 228 U. S. 459, 33 Sup. Ct. 564 and *Everett v. Judson* (1913) 228 U. S. 474, 33 Sup. Ct. 568. These cases held that the interest of the trustee in life insurance policies extended only to their cash surrender value determined as of the date of the filing of the bankruptcy petition. On the strength of these decisions it has been thought by some authorities that the trustee's sole source of title is the proviso, and that consequently a policy not expressly payable to the bankrupt, his estate or representatives, does not pass to the trustee, even though the bankrupt has the power to change the beneficiary at will and thus obtain for himself the cash surrender value of the policy. This was the holding of the District Court and of the Court of Appeals in the instant case. *In re Samuels* (1917, C. C. A. 2d) 237 Fed. 796. See also Remington, *Bankruptcy* (2d ed.) sec. 1009; *In re Arkin* (1916, C. C. A. 2d) 231 Fed. 947; *cf. In re Hammel* (1915, C. C. A. 2d) 221 Fed. 56. But see *contra: Malone v. Cohn* (1916, C. C. A. 5th) 236 Fed. 882; *In re Bonvillain* (1916, E. D. La.) 232 Fed. 370; *In re Shoemaker* (1915, E. D. Pa.) 225 Fed. 329. Fortunately the dispute has now been settled by supreme authority and the more liberal interpretation finally established. The court did not deem it necessary to support its decision by any extended argument. The fact that the policies, while not payable to the bankrupt, could be made so at his will and by his simple declaration, was thought to bring the case within the proviso, even if that were regarded alone. But the court also buttressed its decision by a reference to clause (3) of section 70a which confers upon the trustee all powers which the bankrupt might have exercised for his own benefit. Whether the reference to clause (3) was intended as an argument in support of the court's construction of the proviso, or as an assertion that the bankrupt's power to change the beneficiary passed to the trustee by virtue of clause (3), does not clearly appear.

CARRIERS—STATE REGULATION OF RATES—COMMUTATION TICKETS.—A railroad company sought an injunction to restrain the Public Service Commission of Maryland from enforcing an order revising a schedule filed by the company of proposed increases in its voluntarily established commutation rates for intrastate passenger service. *Held,* that the injunction was properly refused since, in a case where the railroad had itself established special commutation rates, the

state had power to regulate such rates on the basis of a lower charge than for ordinary passenger service. White, C. J., McKenna and Reynolds, J. J. *dissenting* (without opinion). *Pennsylvania R. R. Co. v. Towers* (1917) 38 Sup. Ct. 1.

The limitation to cases where the railroad had itself voluntarily established commutation rates resulted from the state court's construction of the powers of the State Commission as limited to such cases. The reasoning of the opinion would seem equally applicable to cases where no such rates had previously been established and also to interstate commutation rates. The authority to establish a lower rate for special forms of passenger service than is enforced as a reasonable rate for general service had been recognized by the Supreme Court in earlier decisions. *Interstate Cons. St. Ry. Co. v. Massachusetts* (1907) 207 U. S. 79, 28 Sup. Ct. 26 (reduced rates for school children's tickets); *Minnesota Rate Cases* (1913) 230 U. S. 352, 33 Sup. Ct. 729 (half fare tickets for children under 12). This principle had also been expressly applied to commutation tickets both by the Interstate Commerce Commission and by state courts. *Commutation Rate Case* (1911) 21 Int. Com. Rep. 428; *People v. Public Service Commission* (1914, N. Y.) 159 App. Div. 531, 145 N. Y. Supp. 503, affirmed 215 N. Y. 689, 109 N. E. 1089. In the regulation of freight rates, and of the rates of such public utilities as telephone companies and electric light and power companies, more or less elaborate classification with different unit charges for different classes of service is of course familiar practice, and in fact is recognized as a practical necessity. The doubt in regard to commutation rates arose from the decision in *Lake Shore & M. S. R. R. Co. v. Smith* (1899) 173 U. S. 684, 19 Sup. Ct. 565. In that case the court held that a state could not by statute require the issuing of mileage tickets at a less rate than the maximum rate per mile also fixed by statute for passenger travel in general. In the principal case commutation tickets are distinguished from mileage tickets, and expressions in the opinion in the *Lake Shore* case at variance with the present decision are expressly overruled. The result commends itself as in line with the general principles of public service regulation.

CONFLICT OF LAWS—DUE PROCESS—JURISDICTION OF NON-RESIDENT SERVED BY PUBLICATION.—An equitable action for separate maintenance was brought in Washington, one defendant, the husband, being a non-resident served by publication only, and the others defendants, personally served in Washington, being respectively a trustee of the absent husband and the maker of a promissory note payable to him. Against the trustee and the debtor an injunction issued restraining payments to the husband and ordering the funds to be paid into court when realized or due. The defendants contested the court's jurisdiction. *Held,* that the injunction was a sufficient proceeding against the property interests of the defendant to stamp the suit as one *in rem* and that the court had jurisdiction. Four justices *dissenting*. *Kelley v. Bausman* (1917, Wash.) 168 Pac. 181.

Three successive questions may arise for determination in such a case: (1) Whether the statutes governing suits against non-residents are intended to include not only attachments and garnishments but also suits in equity wherein an injunction is sought against a resident debtor, or other obligor, of the non-resident defendant. Under their respective statutes some courts have decided the question affirmatively. *Bragg v. Gaynor* (1893) 85 Wis. 468, 55 N. W. 919; *Benner v. Benner* (1900) 63 Oh. St. 220, 58 N. E. 569. *Contra, Waldock v. Atkins* (1916, Okla.) 158 Pac. 587. See also, *Rhoades v. Rhoades* (1907) 78 Neb. 495, 111 N. W. 122 (receiver appointed and jurisdiction sustained). (2) Whether in the absence of statutory authorization a court of equity may assume jurisdiction in such a case. No case has been found involving this precise point. (3) Whether with or without a statute such an assumption of jurisdiction is